

§ 354.5 Report of violation and investigation.

(a) An employee of the Department of Commerce who has information indicating that the terms of an administrative protective order have been violated will provide the information to the appropriate Director or the Chief Counsel.

(b) Upon receiving information which indicates that a person may have violated the terms of an administrative protective order, from an employee of the Department of Commerce or any other person, the appropriate Director will conduct an investigation concerning whether there was a violation of a protective order, and who was responsible for the violation, if any. For purposes of this part, the Director will be supervised by the Deputy Under Secretary for International Trade with guidance from the Chief Counsel. The Director will conduct an investigation only if the information is received within 30 days after the alleged violation occurred or, as determined by the Director, could have been discovered through the exercise of reasonable and ordinary care.

(c) The appropriate Director will provide a report of the investigation to the Deputy Under Secretary, after review by the Chief Counsel, no later than 180 days after receiving information concerning a violation. Upon the appropriate Director's request, and if extraordinary circumstances exist, the Deputy Under Secretary may grant the appropriate Director up to an additional 180 days to conduct the investigation and submit the report.

(d) The following examples of actions that constitute violations of an administrative protective order shall serve as guidelines to each person subject to a protective order. These examples do not represent an exhaustive list. Evidence that one of the acts described in the guidelines has been committed, however, shall be considered by the Deputy Under Secretary as reasonable cause to believe a person has violated a protective order, within the meaning of § 354.6.

(1) Disclosure of proprietary information to any person not granted access to that information by protective order, including an employee of the De-

partment not directly concerned with carrying out the investigation in connection with which the information is submitted, an employee of any other United States Government agency, or a member of Congress.

(2) Failure to follow the detailed procedures outlined in the protective order for safeguarding proprietary information, including maintaining a log showing when each proprietary document is used, and by whom, and requiring all employees who obtain access to proprietary information (under the terms of a protective order granted their employer) to sign and date a copy of that protective order.

(3) Loss of proprietary information.

(4) Failure to return or destroy all copies of the original documents and all notes, memoranda, and submissions containing proprietary information at the close of the proceeding for which the data were obtained by burning or shredding of the documents or by erasing electronic memory, computer disk, or tape memory, as set forth in the administrative protective order.

(5) Failure to delete proprietary information from the public version of a brief or other correspondence filed with the Department.

(6) Disclosure of proprietary information during a public hearing.

(7) Use of proprietary information submitted for one investigation or administrative review during a different investigation or administrative review.

(8) Use of proprietary information submitted in one investigation or administrative review in a separate investigation or administrative review of a product from the same or different country.

(9) Use of proprietary information submitted for a countervailing duty investigation or administrative review during an antidumping duty investigation or administrative review, or vice versa.

§ 354.6 Initiation of proceedings.

If the Deputy Under Secretary concludes, after an investigation and report by the appropriate Director under § 354.5(c) and consultation with the Chief Counsel, that there is reasonable